

ZB# 02-72

La Casa D'Oro, Inc.

9-1-12.1

La Casa D'oro Inc. (Dickover)
SIGN VARIANCE (SPECIAL TEES)
(ELECTROLUX)

02-72

9-1-12.1

Public Hearing
1/13/03

APPROVED *3/8/03*

APPLICATION FEE (DUE AT TIME OF FILLING OF APPLICATION)

FILE # 02-72 TYPE: AREA ✓ USE _____APPLICANT: La Casa D'oro Inc.P.O. Box 289Chester, N.Y. 10918TELE: Robt. Dickover 294-9447

RESIDENTIAL: \$ 50.00 CHECK # _____

COMMERCIAL: \$ 150.00 CHECK # 3394

INTERPRETATION: \$ 150.00 CHECK # _____

ESCROW: \$ 500.00 CHECK # 3395DISBURSEMENTS:

MINUTES ATTORNEY FEES
\$4.50 PER PAGE \$35.00 / MEETING

PRELIM.....12/9.....\$ 13.50 \$ 35.002ND PRELIM..... _____3RD PRELIM..... _____PUB HEARING.....1/13.....\$ 40.50 \$ 35.00

PUB HEARING (CON'T)... _____

TOTAL \$ 54.00 \$ 70.00

OTHER CHARGES:..... \$ _____

ESCROW POSTED: \$ 500.00

AMOUNT DUE: \$ _____

REFUND DUE: \$ 376.00

L.F.

COMMERCIAL: \$150.00
INTERPRETATION: \$150.00 CHECK # _____
ESCROW: \$500.00 CHECK # 3395

DISBURSEMENTS:

	<u>MINUTES</u> <u>\$4.50 PER PAGE</u>	<u>ATTORNEY FEES</u> <u>\$35.00 / MEETING</u>
PRELIM..... <u>12/9</u>	\$ <u>13.50</u>	\$ <u>35.00</u>
2 ND PRELIM.....	_____	_____
3 RD PRELIM.....	_____	_____
PUB HEARING..... <u>1/13</u>	<u>40.50</u>	<u>35.00</u>
PUB HEARING (CONT')...	_____	_____
TOTAL	\$ <u><u>54.00</u></u>	\$ <u><u>70.00</u></u>

OTHER CHARGES:..... \$ _____

• • • • •

ESCROW POSTED: \$ 500.00
AMOUNT DUE: \$ _____
REFUND DUE: \$ 376.00

L.R.

Need Pictures



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4615
Fax: (845) 563-4695

OFFICE OF THE ZONING BOARD OF APPEALS

March 11, 2003

Dickover, Donnelly, Donovan & Biagi, LLP
P.O. Box 610
Goshen, NY 10924

SUBJECT: ZBA FILE #02-72 REQUEST FOR VARIANCE

Dear Mr. Dickover:

Please find enclosed two copies of the Formal Decision for your case before the Zoning Board of Appeals. Please keep these copies in your records for future reference if needed.

If you are in need of any further assistance or have any questions in this matter, please feel free to contact me at the above number.

Very truly yours,

Myra Mason, Secretary to the
NEW WINDSOR ZONING BOARD

MLM:mlm

Sent 3/11/03

OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

Freestanding sign
denied
APPROVED

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT (845) 563-4615 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.

DATE: 12/19/02

APPLICANT: La Casa D'oro
C/o Heritage Realty
PO Box 289
Chester, NY 10918

COPY

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE:

FOR : Special Tees

LOCATED AT: 152 Windsor Highway

ZONE: C Sec/ Blk/ Lot: 9-1-12.1

DESCRIPTION OF EXISTING SITE:

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. Existing wall sign exceeds maximum height of 2ft6in (special tees).


BUILDING INSPECTOR

PERMITTED 2ft6in

PROPOSED OR
AVAILABLE:

VARIANCE
REQUEST:

ZONE: C USE: 48-18-B-1

SIGN:

FREESTANDING:

HEIGHT:

3ft

6in

WIDTH:

WALL SIGNS:

TOTAL ALL SIGNS:

FEET FROM ANY LOT LINE:

cc: Z.B.A., APPLICANT, FILE, W/ATTACHED MAP

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS
IMPORTANT
YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

JUL 01 2002

Town of New Windsor, New York

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and under slab plumbing.
4. When framing, rough plumbing, rough electric and before being covered.
5. Insulation.
6. Final inspection for Certificate of Occupancy. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway pond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Call 24 hours in advance, with permit number, to schedule inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and percolation test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and there is no fee for this.

FOR OFFICE USE ONLY:
Building Permit #: PA 2002-0720

**AFFIDAVIT OF OWNERSHIP AND/OR CONTRACTOR'S COMP & LIABILITY INSURANCE CERTIFICATE IS
REQUIRED BEFORE THE BUILDING PERMIT APPLICATION WILL BE ACCEPTED AND/OR ISSUED**

PLEASE PRINT CLEARLY - FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises HERITAGE REALTY + CONSTRUCTION

Address 152 WINDSOR HAVY - STE 200, NEW WINDSOR Phone # 845 651 3148

Mailing Address PO BOX 289 NEW WINDSOR, NY 10918 Fax # _____

Name of Architect _____

Address _____ Phone _____

Name of Contractor _____

Address _____ Phone _____

State whether applicant is owner, lessee, agent, architect, engineer or builder _____

If applicant is a corporation, signature of duly authorized officer. _____

(Name and title of corporate officer)

1. On what street is property located? On the _____ side of _____
(N, S, E or W)
and _____ feet from the intersection of _____

2. Zone or use district in which premises are situated _____ Is property a flood zone? Y _____ N _____

3. Tax Map Description: Section _____ Block _____ Lot _____

4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.

a. Existing use and occupancy _____ b. Intended use and occupancy _____

5. Nature of work (check if applicable) ☐ New Bldg. ☐ Addition ☐ Alteration ☐ Repair ☐ Removal ☐ Demolition ☒ Other

EXISTING
SIGN FOR
SPECIALTIES

6. Is this a corner lot? _____

7. Dimensions of entire new construction. Front _____ Rear _____ Depth _____ Height _____ No. of stories *Occupancy*

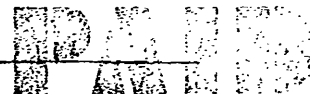
8. If dwelling, number of dwelling units: _____ Number of dwelling units on each floor _____

Number of bedrooms _____ Baths _____ Toilets _____ Heating Plant: Gas _____ Oil _____
Electric/Hot Air _____ Hot Water _____ If Garage, number of cars _____

9. If business, commercial or mixed occupancy, specify nature and extent of each type of use _____

10. Estimated cost _____ Fee _____

\$50.00
part of ck #2604
date 7/1/02



date

APPLICATION FOR BUILDING PERMIT
TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK
Pursuant to New York State Building Code and Town Ordinances

Building Inspector: Michael L. Babcock
Asst. Inspectors: Frank Liel & Louis Kryshear
New Windsor Town Hall
555 Union Avenue
New Windsor, New York 12553
(845) 563-4618
(845) 563-4665 FAX

Bldg Insp Examined _____
Elec Insp Examined _____
Approved _____
Disapproved _____
Permit No. _____

INSTRUCTIONS

- This application must be completely filled in by typewriter or in ink and submitted to the Building Inspector.
- Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram, which is part of this application.
- This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- The work covered by this application may not be commenced before the issuance of a Building Permit.
- Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions, or alterations, or for removal or demolition or use of property as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

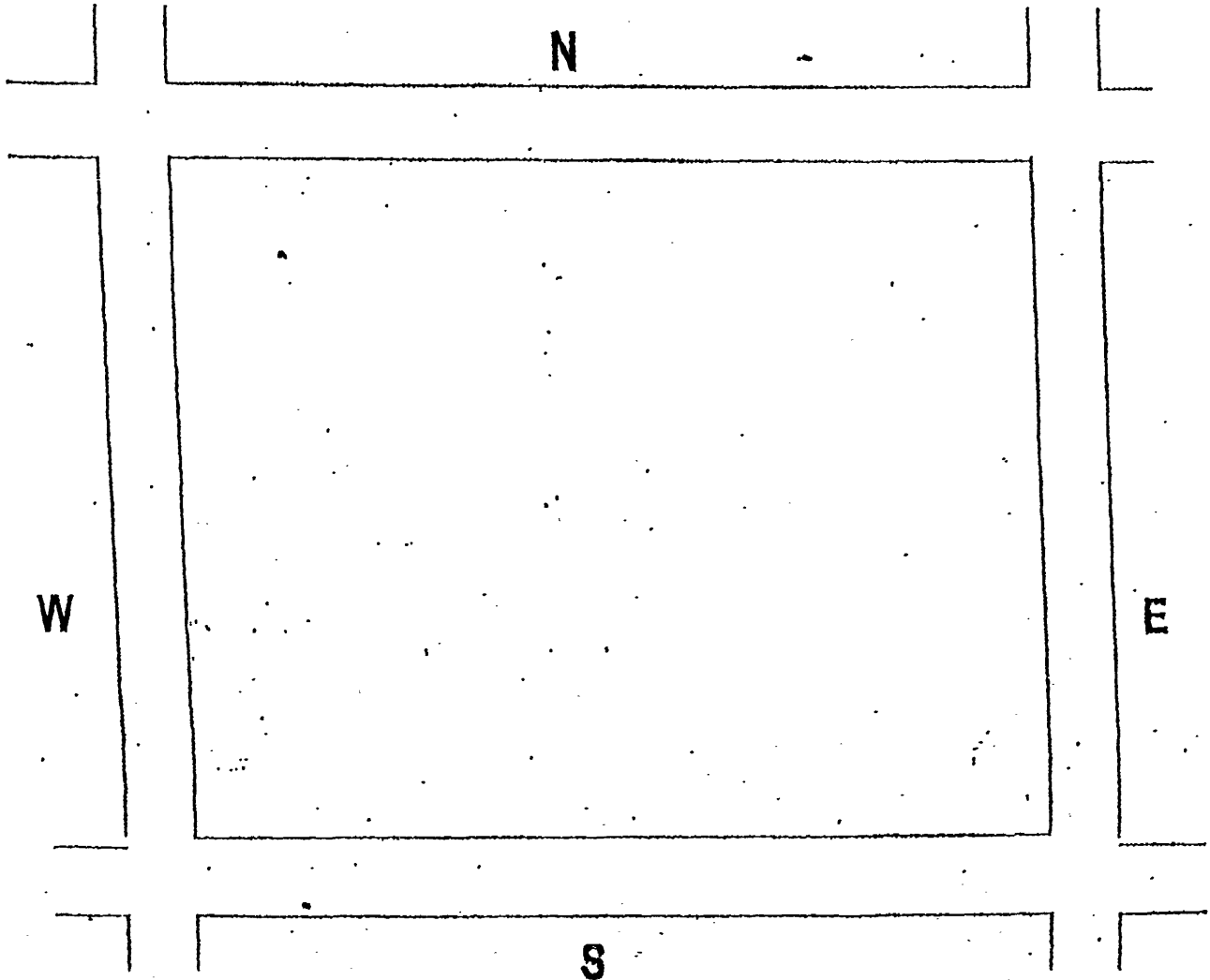
(Signature of Applicant)

(Address of Applicant)

(Owner's Signature)

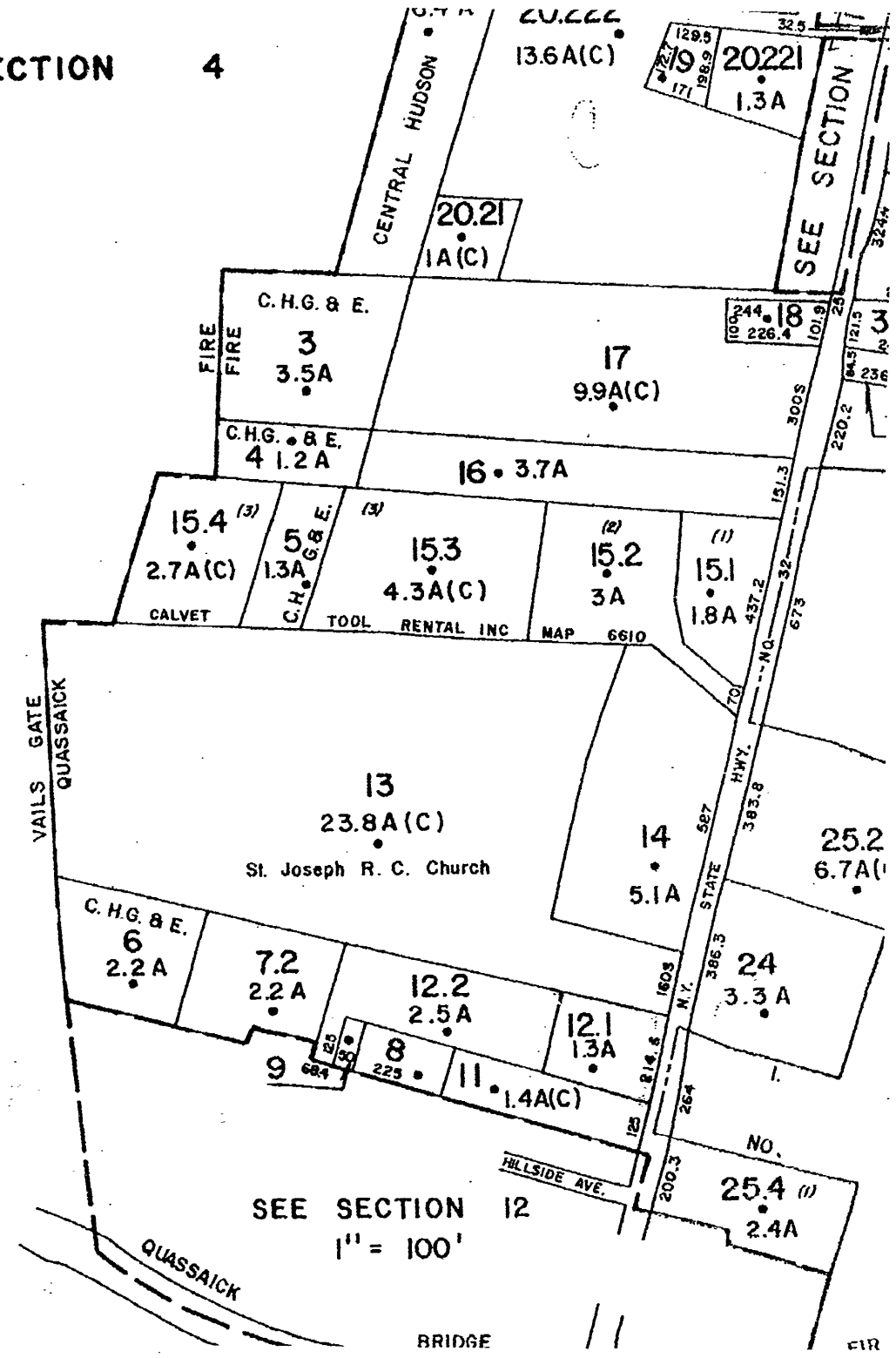
PLOT PLAN

NOTE: Locate all buildings and indicate all set back dimensions. Applicant must indicate the building line or lines clearly and distinctly on the drawings.



SECTION

4



OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

**APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT (845) 563-4615 TO
MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.**

DATE: 12/19/02

APPLICANT: La Casa D'oro
C/o Heritage Realty
PO Box 289
Chester, NY 10918

COPY

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE:

FOR : Existing 4ftx6ft pole sign (south)

LOCATED AT: 152 Windsor Highway

ZONE: C Sec/ Blk/ Lot: 9-1-12.1

DESCRIPTION OF EXISTING SITE: Existing retail building

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. Existing 4ftx6ft pole sign exceeds number of permitted pole signs.


BUILDING INSPECTOR

PERMITTED 1

PROPOSED OR
AVAILABLE:

VARIANCE
REQUEST:

ZONE: C USE: 48-18-H-1-A-4

SIGN:

FREESTANDING:

2

1

HEIGHT:

WIDTH:

WALL SIGNS:

TOTAL ALL SIGNS:

FEET FROM ANY LOT LINE:

cc: Z.B.A., APPLICANT, FILE, W/ATTACHED MAP

Denied

OCC 2 sig 15/11/11

IMPORTANT
YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and underslab plumbing.
4. When framing, rough plumbing, rough electric and before being covered.
5. Insulation.
6. Final inspection for Certificate of Occupancy. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Wall water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway pond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Call 24 hours in advance, with permit number, to schedule inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and percolation test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and there is no fee for this.

RECEIVED

DEC 17 2002

BUILDING DEPARTMENT

FOR OFFICE USE ONLY:
Building Permit # 2002-1377

AFFIDAVIT OF OWNERSHIP AND/OR CONTRACTOR'S COMP & LIABILITY INSURANCE CERTIFICATE IS REQUIRED BEFORE THE BUILDING PERMIT APPLICATION WILL BE ACCEPTED AND/OR ISSUED

PLEASE PRINT CLEARLY - FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises BJ'S HOLDING LLC [FORMERLY: HERITAGE REALTY CONSTR.]

Address 10 P.O. BOX 610 Phone # 845-294-9447

Mailing Address GOSHEN, N.Y. 10924 Fax # 845-294-6553

Name of Architect NA

Address NA Phone NA

Name of Contractor NA

Address _____ Phone _____

State whether applicant is owner, lessee, agent, architect, engineer or builder AGENT

If applicant is a corporation, signature of duly authorized officer. _____

(Name and title of corporate officer)

1. On what street is property located? On the WEST side of WINDSOR HWY.
(N, S, E or W)
and _____ feet from the intersection of _____

2. Zone or use district in which premises are situated N.C. Is property a flood zone? Y _____ N X

3. Tax Map Description: Section 9 Block 1 Lot 12, 1

4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.

a. Existing use and occupancy COMMERCIAL b. Intended use and occupancy COMMERCIAL

5. Nature of work (check if applicable) ☐ New Bldg. ☐ Addition ☐ Alteration ☐ Repair ☐ Removal ☐ Demolition ☒ Other

6. Is this a corner lot? NO POLE SIGN - (South) 64 sq ft max size

7. Dimensions of entire new construction. Front NA Rear _____ Depth _____ Height _____ No. of stories _____

8. If dwelling, number of dwelling units: NA Number of dwelling units on each floor NA

Number of bedrooms _____ Baths _____ Toilets _____ Heating Plant: Gas _____ Oil _____
Electric/Hot Air _____ Hot Water _____ If Garage, number of cars _____

9. If business, commercial or mixed occupancy, specify nature and extent of each type of use 100% COMMERCIAL

10. Estimated cost _____

Fee

\$ 50⁰⁰

CA# 3387

PAID

2d Free Stg 5.00

____/____/____
date

APPLICATION FOR BUILDING PERMIT
TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK
Pursuant to New York State Building Code and Town Ordinances

Building Inspector: Michael L. Babcock
Asst. Inspectors: Frank Liel & Louis Krychew
New Windsor Town Hall
555 Union Avenue
New Windsor, New York 12683
(845) 583-4818
(845) 583-4885 FAX

Bldg Insp Examined _____
Fire Insp Examined _____
Approved _____
Disapproved _____
Permit No. _____

INSTRUCTIONS

- This application must be completely filled in by typewriter or in ink and submitted to the Building Inspector.
- Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram, which is part of this application.
- This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- The work covered by this application may not be commenced before the issuance of a Building Permit.
- Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions, or alterations, or for removal or demolition or use of property as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

POB 610 . 060
(Signature of Applicant)

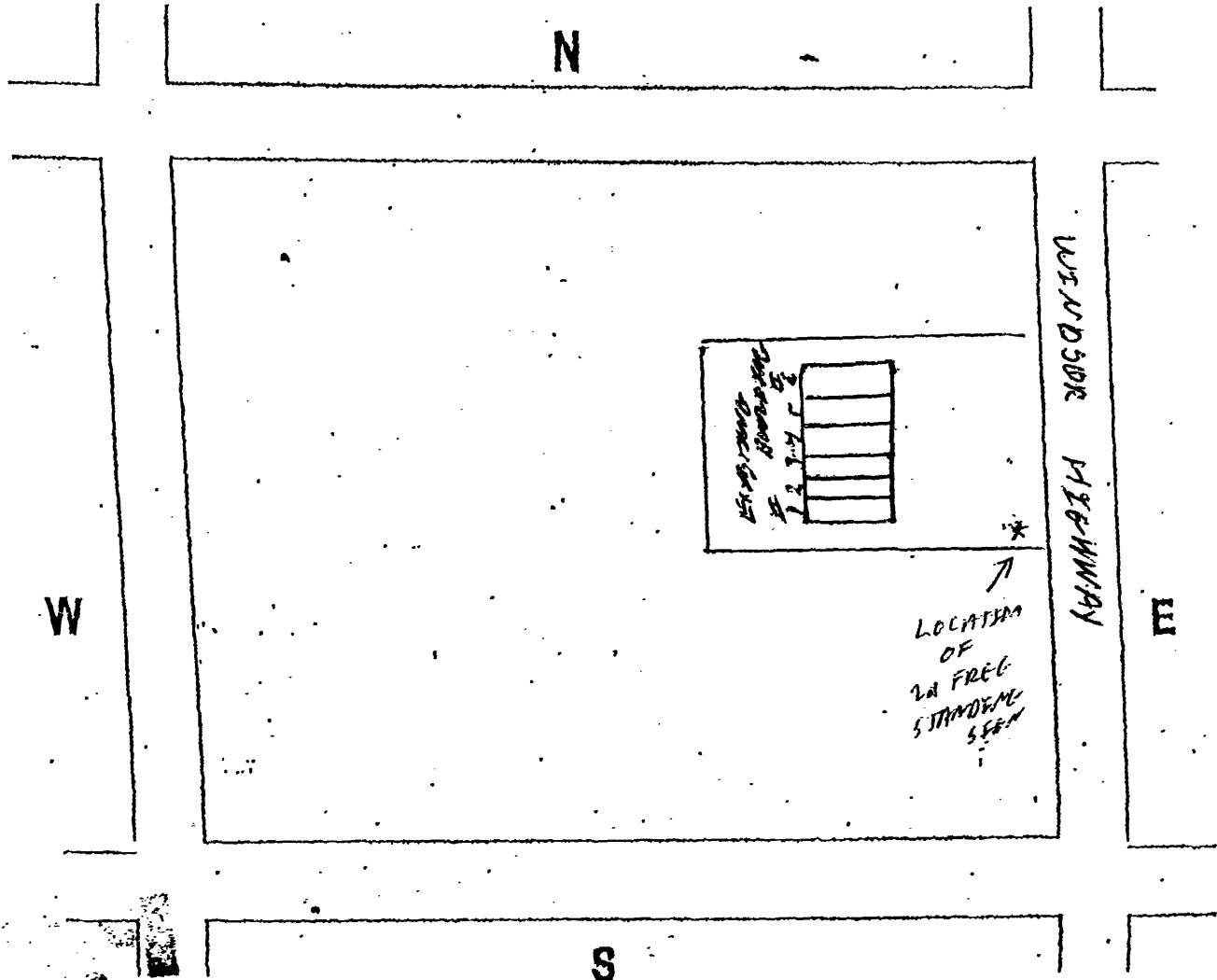
% POB 610 GOSHEN, N.Y. 10924
(Address of Applicant)

BTS HOLDING LLC
(Owner)

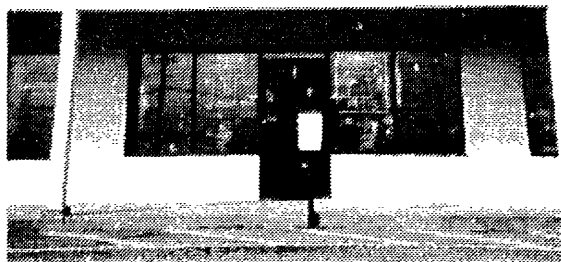
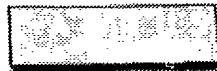
(Owner's Address)

PLOT PLAN

NOTE: Locate all buildings and indicate all set back dimensions. Applicant must indicate the building line or lines clearly and distinctly on the drawings.







NEW WINDSOR ZONING BOARD OF APPEALS

SBL: 9-1-12.1

In the Matter of the Application of

MEMORANDUM OF
DECISION GRANTING

LA CASA D'ORO (BJS HOLDING, LLC.)

SIGN VARIANCE

CASE #02-72

WHEREAS, LA CASA D'ORO (BJS HOLDING, LLC) , owners of 152 Windsor Highway, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a/an 6" maximum height variance on 2- façade signs and one additional freestanding sign;

WHEREAS, a public hearing was held on the 13th day of January 2003 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, Mr. Robert Dickover, Esq. appeared on behalf of this Application; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in favor of or in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.
2. The Evidence presented by the Applicant showed that:
 - (a) The property is a commercial property located in a neighborhood of commercial properties on a busy state highway.
 - (b) The applications are for two businesses contained in the same building.
 - (c) The application for the façade sign is for a tenant known as "Special Tees" and it is for a sign which is existing on the façade of the building.

- (d) This sign replaces a sign for a prior tenant.
- (e) There have been no complains, formal or informal, about the façade sign.
- (f) The sign is similar in size to the signs for the other tenants in the building.
- (g) The façade sign has no flashing, moving or neon. It is internally lit but, is non-flasing.
- (h) The freestanding sign is a second freestanding sign on the premises. It is existing.
- (i) This freestanding sign is not iluminated, does not flash, is non-neon and non-moving.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

With Respect to the Façade Signs:

1. The requested variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant which can produce the benefits sought.
3. The variances requested are substantial in relation to the Town regulations but nevertheless are warranted.
4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.
6. The benefit to the Applicant, if the requested variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variances are appropriate and are the minimum variances necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
8. The interests of justice will be served by allowing the granting of the requested area variances.

With Respect to the Freestanding Sign:

9. The property is already serviced by one freestanding sign and it is not in the interest of justice that a second sign be granted.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 6" maximum height variance for two façade signs as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing; and that the Zoning Board of Appeals of the Town of New Windsor DENY a request for one additional freestanding sign as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing;

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: March 3, 2003


Chairman

PUBLIC HEARINGS:

BJS HOLDING LLC (LA CASA DORO) (02-72)

MR. TORLEY: First public hearing is BJS Holding (La Casa Doro) request for six inch maximum height for 2 building signs.

Robert Dickover, Esq. appeared before the board for this proposal.

MR. TORLEY: Before you begin, let the record show there's no one in the audience on this matter.

MR. DICKOVER: Robert Dickover appearing on behalf of the applicant. Preliminary matters, Mr. Chairman, the affidavit of mailing and notices and the publication.

MS. MASON: For the record, on the 27th of December, 23 addressed envelopes containing the public hearing notice were mailed out.

MR. TORLEY: Let the record show that Mr. McDonald has departed to the fire as he is a member of the volunteer fire department and has been called to duty. Okay, sir.

MR. DICKOVER: The gist of our application is set forth in our application, Mr. Chairman, hopefully you folks have had a chance to see that, it's a two part application. One section a variance of an existing placard sign on the front of the building for our tenant known as Special Tees for the, there's a picture of the existing sign as part of our application, apparently it's six inches too wide, the ordinance calls for I believe 2.6 feet in width and this particular sign unfortunately was put up 3 feet. That's the first application. So we seek a six inch variance with respect to that existing sign and then there's a second part of the application for a second freestanding pole sign that's also on the premises, there's a picture and a diagram of that also I believe as part of the file and it's submitted.

MR. KANE: When you say the six inch maximum width,

you're talking about the height?

MR. DICKOVER: Yeah, the height, there's length and there's height. When I went to school, it was called height and width. I don't know what it's called now.

MR. KANE: Just want to make sure we're both on the same page.

MR. BABCOCK: You're allowed a 2 1/2 foot by 10 foot sign and he has a three foot by ten foot sign.

MR. DICKOVER: Just a point of information there was a prior tenant there and Certificate of Occupancy was issued for a three foot in height sign, that tenant removed themselves and so pursuant to your ordinance, it's my understanding we need to make application for occupancy and signage and again, I believe history of this would show that that's when the height of the sign came into question. If you care to have it as part of your file there was a Certificate of Occupancy issued to a tenant that was called Affairs of the Heart. If I may submit this, Mr. Chairman, if you want to take it, it would show that there's a permit issued and I'm reading from this C.O. permit issued for three foot by 12 foot wall sign slash occupancy certificates issued Affairs of the Heart. That's the same store location, you may have that as part of your file already.

MR. TORLEY: So that was for the wall sign now not a pole sign?

MR. DICKOVER: This is for the wall sign that I'm referring to a placard sign, facade sign.

MR. TORLEY: So you're now talking about the Special Tees sign?

MR. DICKOVER: Yes, sir, yes, I am.

MR. KANE: And the sign is up and existing as is?

MR. DICKOVER: Yes, it is.

MR. TORLEY: Have you had any complaints?

MR. DICKOVER: No, we have not, not that I'm aware of, no.

MR. KANE: Is it similar in size to the other signs on the facade of the building?

MR. DICKOVER: The other signs on the facade of the building, let me, they're all similar in size, all of the other signs that are currently there, except for the store at the far right, it houses a Tae Kwon Do studio are in compliance with the ordinance. They are all 2 1/2 by 10, I think one of them is 2 1/2 by 8, the Tae Kwon Do studio he calls himself Master Maeng, M-A-E-N-G, that sign is not in compliance and applied for and received a building permit to remove it and replace it with a conforming sign. The status of that work I believe we're trying to contract with someone to do that work.

MR. KANE: That sign at the end will be in compliance?

MR. DICKOVER: Application is for a complying sign 2 1/2 by 10, sir.

MR. TORLEY: Do you want to--

MR. KANE: Let's do it separately.

MR. REIS: Just going to ask Myra were there any responses to the notices that went out?

MS. MASON: No.

MR. TORLEY: Gentlemen?

MR. KANE: Does the sign, any illumination on this particular sign? There's no flashing, there's no neon?

MR. DICKOVER: I've never been there at night, it's a, I don't think it flashes but we also had electrical inspections done with Mr. Lisi from the Building Department within the last 30 days or so--

MR. TORLEY: Internally lit, non-flashing, non-neon

sign.

MR. BABCOCK: Yes.

MR. DICKOVER: Thank you, Mr. Babcock.

MR. TORLEY: I'll entertain a motion.

MR. KANE: On the first request for BJS Holding on the six inch maximum height on this Special Tee sign, I move that we vote in favor of that variance.

MR. BABCOCK: Mr. Chairman, did you open it up to the public?

MR. TORLEY: There's no one in the public.

MR. REIS: Second the motion.

ROLL CALL

MR. KANE	AYE
MR. REIS	AYE
MR. TORLEY	AYE

MR. TORLEY: Now we move to the pole sign and existing 4 foot by 6 foot pole sign, do you have a photograph of that in this package?

MR. DICKOVER: There's a photograph of that.

MR. TORLEY: Says Heritage Square.

MR. DICKOVER: May I see it just to make sure? It's this one in the upper right-hand corner of the photograph, those are the approaches that you asked me for from the north and the south. The sign is very difficult to spot in there because it's not a large sign at least from sight distance purposes or for sight distance purposes.

MR. REIS: What are we looking for on this?

MR. TORLEY: It's a second freestanding. Where is the one sign that's permitted on the property?

MR. DICKOVER: Yes, I believe I located that also on a diagram or a map that I submitted. It's centered at the center of the building on the property, it's right there centered in line with the building.

MR. TORLEY: It says what?

MR. DICKOVER: And it says you have a photograph I hope of it.

MS. MASON: Is this the diagram?

MR. DICKOVER: Thank you, that's the diagram and this is the location of the existing, the proposed sign, one that we're applying for is at this far corner.

MR. TORLEY: Can you show it to these folks? So what does it say on the existing sign?

MR. DICKOVER: They're both existing but the one that's quote the legal sign, the main sign for the property says across the top of it Heritage Square and then it has the on a separate placards the names of the tenants and they're meant to be removed as tenants come and go.

MR. KANE: That's the existing sign right now, the one with the placards for the different tenants.

MR. DICKOVER: Yes.

MR. KANE: Could you explain to why we need the second sign that says Heritage Square?

MR. DICKOVER: The history is a little bit bizarre but I will go through it if you want to hear it and this relates to the legal sign that one that has its permits, my client applied, it's my understanding history from coming from this that the legal sign there was a permit and application for a building permit was made, the size of that sign as far as total square footage exceeded your ordinance. As they proceeded in front of this board for a variance, the building permit for the existing sign expired as time ran out I think you have a 6 month time period for the construction to

be completed. While that work was going on, the client felt some need to get some sort of identification for this shopping center as Heritage Square, now whether they were right or wrong, I'm not sure, but at that time, and in that process period, they constructed this small second freestanding sign that's the subject of our application and they put it up. After that was done, they obtained their variance for the existing quote legal sign and that work was completed and this little sign that we're applying for tonight has remained there ever since that period of time.

MR. KANE: Is this particular sign illuminated?

MR. DICKOVER: No, it's not.

MR. KANE: Can you explain any real need for this sign knowing that the front of that particular lot, the driveways are fairly close, they are not that far apart where the one main sign can't handle viewing the street traffic from both ways.

MR. DICKOVER: The only argument that I can put forth for your question is that it's further identification for the shopping center and makes reference only to Heritage Square which they use as their name. So for further identification purposes in an attempt to avoid confusion to the public, because there are two entrances there, you know, the public may be looking at that saying which entrance do I go in, are they both for the shopping center, are they not, I think it may avoid some confusion. There are two entrances which loop around that existing sign so that would be the applicant's argument.

MR. TORLEY: If he was to have a directional sign that said, how big could a directional sign saying entrance here kind of thing be?

MR. BABCOCK: The standard what we use as the standard and I don't know the answer to that except that it's the standard DOT sign that says enter or exit.

MR. KANE: But this particular sign has no entrance or exit notification?

MR. DICKOVER: No, there's no directional indicator on it.

MR. BABCOCK: The directional signs like you'd see for movement within a parking lot, do not enter signs and exit-entrance signs and one way signs, they are exempt from the code, they are as long as they meet DOT specifications.

MR. TORLEY: So if we took this Heritage Square sign and had a sign that had enter here, he'd be perfectly legal?

MR. BABCOCK: Yes.

MR. TORLEY: And as far as the colors of the sign, that's up to him?

MR. BABCOCK: Yeah, it's got to be DOT standard sign, it's along Route 32, DOT will not accept anything other than that.

MR. TORLEY: Why do you need another sign? I'm trying to see why, you've got a big sign that lists all the things, this is just marking another entrance.

MR. DICKOVER: It's marking another entrance.

MR. TORLEY: So if he had a sign that said entrance or enter?

MR. DICKOVER: They can do that, you know, they could take this sign down and from what I am hearing from Mr. Babcock, they can take it down and put in a sign that has enter here or exit here. Our only position is that the sign is up, it's existing, there is right adjoining this property at that end of the property a motel whose driveway is fairly close and I suppose again to avoid confusion for people coming in and out of there absent replacing it and re-signing the whole thing with directional signs that this one would avoid some confusion for people coming in and out.

MR. KANE: I have no further questions.

MR. REIS: What's the dimensions of the existing sign, Bob?

MR. DICKOVER: The existing sign is 5 foot 3 by 4 feet.

MR. REIS: Non-illuminated?

MR. DICKOVER: Right.

MR. TORLEY: We're directed to grant the smallest feasible variances, everybody has their own vote, all I'm saying to me this looks like you have a large illuminated sign that defines what you need, this is a left over sign from almost a construction period, just sort of hanging around. Okay, gentlemen, do you have any other questions of this matter?

MR. KANE: No, sir.

MR. TORLEY: Entertain a motion on it.

MR. DICKOVER: Might I perhaps interject a thought for you maybe to entertain as part of a motion that we're looking to allow the sign to stand for so long as it may remain there, perhaps if the board is not in favor of this sign, you would allow us some amortization period with respect to it.

MR. TORLEY: How long has it been there?

MR. DICKOVER: It would be there dating back to the original variance on the quote legal sign and I have that record some where.

MR. TORLEY: I vaguely remember, this a long time ago.

MR. REIS: I think it was '91.

MR. DICKOVER: '93, I have a note that it was approved September 1, 1993, it appears on a note from the building department when they disapproved almost ten years.

MR. TORLEY: This is a pretty long time to amortize off

a sign. Gentlemen, do you have a motion that you wish to make?

MR. REIS: Yeah.

MR. KANE: I move that we approve the second freestanding sign for BJS Holding LLC with the addendum that the sign can only remain as long as it's physically able to remain.

MR. REIS: Second it.

ROLL CALL

MR. KANE	NO
MR. REIS	AYE
MR. TORLEY	NO

MS. MASON: Motion is defeated 2 nays.

MR. DICKOVER: Procedurally, does this board follow these motions with a written resolution?

MR. KRIEGER: Eventually yes but it's binding as of now because the building inspector will act on it, he's here now and that's the reason for taking the vote.

MR. DICKOVER: That's fine, I just, we have a list, a laundry list of things with this property I'm trying to resolve with the building department, this is just two of many. All of the others have been resolved. It's my hope and understanding I want to be able to proceed.

MR. KREIGER: You should be able to proceed immediately.

MR. DICKOVER: Very good, thank you.

**TOWN OF NEW WINDSOR
ENGINEER, PLANNING BOARD
AND ZONING BOARD OF APPEALS
OFFICE
845-563-4615**

MEMORANDUM

TO: LARRY REIS, COMPTROLLER
FROM: MYRA MASON, SECRETARY TO THE ZONING BOARD
DATE: JANUARY 16, 2003
SUBJECT: REFUND REMAINDER OF ESCROW

**PLEASE ISSUE A CHECK IN THE AMOUNT OF \$ 376.00 TO CLOSE
OUT ESCROW FOR:**

ZBA FILE # 02-72

NAME: DICKOVER, DONNELLY, DONOVAN & BIAGI, LLP

ADDRESS: P.O. BOX 610

GOSHEN, NY 10924

THANK YOU,

MYRA

*1/16/03
L.R.*



RESULTS OF Z.B.A. MEETING OF:

January 13, 2003

PROJECT: La Casa D'Oro

ZBA #

02-72

P.B.#



USE VARIANCE:

NEED: EAF

PROXY

LEAD AGENCY: M) S) VOTE: A N

~~RIVERA~~

MCDONALD

REIS

KANE

TORLEY

CARRIED: Y N

NEGATIVE DEC: M) S) VOTE: A N

~~RIVERA~~

MCDONALD

REIS

KANE

TORLEY

CARRIED: Y N

PUBLIC HEARING: M) S) VOTE: A N

~~RIVERA~~

MCDONALD

REIS

KANE

TORLEY

CARRIED: Y N

APPROVED: M) S) VOTE: A N

~~RIVERA~~

MCDONALD

REIS

KANE

TORLEY

CARRIED: Y N

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING:

M) S)

VOTE: A N

~~RIVERA~~

MCDONALD

REIS

KANE

TORLEY

CARRIED: Y N

PUBLIC HEARING:

STATEMENT OF MAILING READ INTO MINUTES yes

VARIANCE APPROVED:

^{① ② ① ②}
M) ~~K~~ S) ~~R~~ R VOTE: A ^{① ② ① ②} 3 1 N 0 2

~~RIVERA~~

MCDONALD

REIS

KANE

TORLEY

	Sign #1	Sign #2
RIVERA		
MCDONALD		
REIS	A	A
KANE	A	N
TORLEY	A	N

^{① ② ① ②}
CARRIED: Y ^① ✓ N ^② ✓

No Public Present

Sign (freestanding) - Defeated

07/19/2002 FRI 12:08 FAX 845 562 7880
JUN-24-2002 15:10

JERALD FIEDELHOLTZ P.C.

032
P.20/29

TOWN OF NEW WINDSOR
COUNTY OF ORANGE
555 Union Avenue
New Windsor, New York 12550
Telephone 565-8807

BUILDING DEPARTMENT

Building Permit No: 5346

Location: WINDSOR HWY.W/S

Map No: 334800

Section: 9

Block: 1

Lot: 12.1

CERTIFICATE OF OCCUPANCY

CO No: 91-283

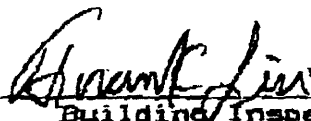
CO Date: 10/28/91

THIS CERTIFIES that the structure described herein, conforms substantitally to the approved plans and specifications heretofore filed in this office with Application for Building Permit dated: 5/16/91, pursuant to which Building Permit was issued, and conforms to all the requirements of the applicable provisions of the law.

The structure for which this certificate is issued is as follows:

Material: SEE PLANS	Number of Stories: 0.0	Number of Families: 0
Dimensions of Building: 3'X12'	Dimensions of Lot: SEE PLANS	
Use of Building: SIGN	Number of Bedrooms: 0	
Number of Toilets: 0	Number of Bathrooms: 0.0	
Heating Plant:		
Remarks: PERMIT ISSUED FOR 3'X12' WALL SIGN/OCCUPANCY		

This certificate is issued to: AFFAIRS OF THE HEART
on the aforesaid structure.


Building Inspector

(The Certificate of Occupancy will be issued only after affidavits or other competent evidence is submitted to the Superintendent of Buildings that the completion of the construction in compliance with the State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Occupancy).

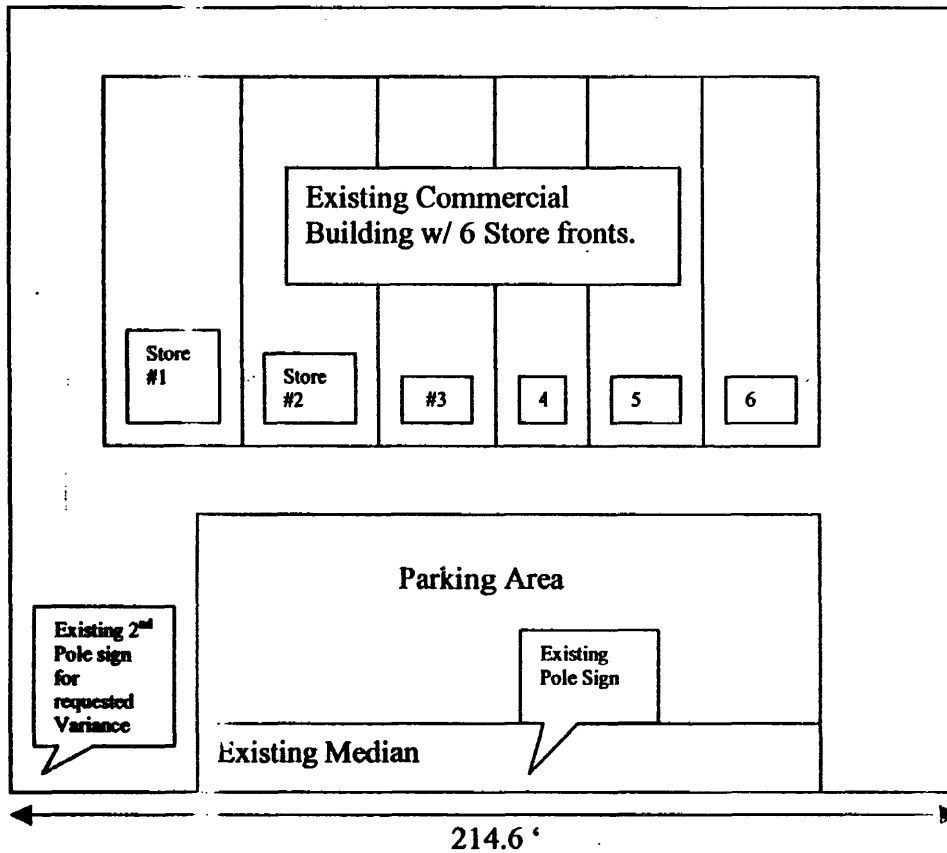
DISTRIBUTION:

ORIG to APPLICANT,

COPY to FILE

HERITAGE SQUARE AT 152 WINDSOR HIGHWAY TOWN OF NEW WINDSOR

Plot not to scale



Windsor Highway

← Towards Vails Gate

→ Towards Newburgh

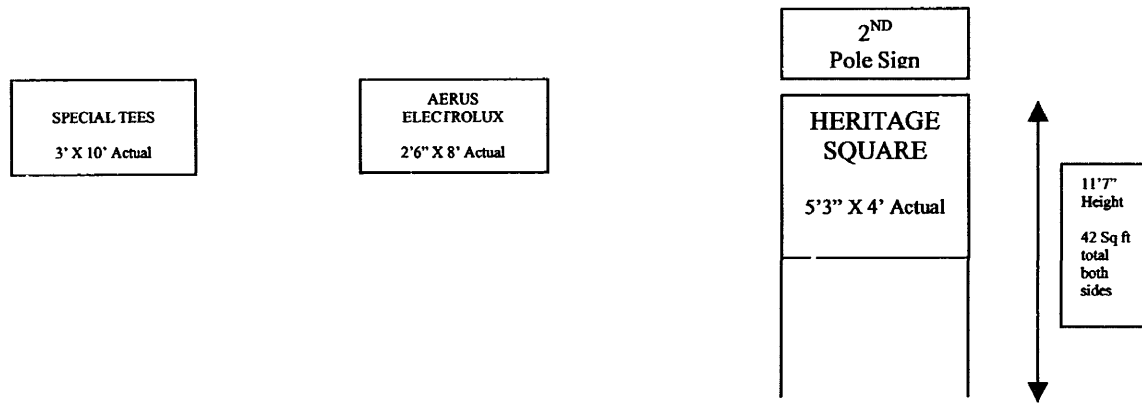
02-72

HERITAGE SQUARE SIGNAGE-152 WINDSOR HIGHWAY-Store spaces not to Scale-Signage as of 12/16/2002

NEW AGE FITNESS 2' X 10'	SPECIAL TEES 3' X 10'	THE CORNWALL THRIFT SHOP 2' X 15'	THE CORNWALL THRIFT SHOP 3'6" X 8'	AERUS ELECTROLUX 2'6" X 8'	MASTER MAENG 20' X 4'6"
	Variance requested for 3' x 8' sign			Variance/In terpretation requested for 3' x 8' sign- though actual dimension is shown to be 2'6" x	This sign is out of compliance -bldg permit applic'n is pending for removal and replacemen t
STORE #1	STORE #2	STORE #3	STORE #4	STORE #5	STORE #6
Vacant- Was New Age Fitness; Was Martial Arts Studio; Was Barber and Beauty Shop; Was Raspberry Rest. Was Valentino's Restaurant; Was Benito's Pizza; Was Chrisdee's Restaurant;	Special Tee's; Was Affairs of the Heart; Was Chrisdee's Restaurant	Cornwall Thrift; Was Rockaway Bedding; Was Chrisdee's Restaurant	Cornwall Thrift; Was Computer Sales;	Electrolux; Was Olan Mills Photo; Was Inches Aweigh;	Master Maeng Tae Kwon Do; Was Butcher Boys; Was Chinese Restaurant; Was Fortune Cookie;

02-72

HERITAGE SQUARE SIGN VARIANCE APPLICATION-152 WINDSOR HIGHWAY-*Signage as of 12/10/2002*



02-12

Jul. 23. 2002 2:11PM

No. 1684 P. 3/9

OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT (845) 563-4630 TO
MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.

DATE: 7/16/02

APPLICANT: La Casa D'oro Inc.
PO Box 289
Chester, NY 10918

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE:

FOR: Electrolux

LOCATED AT: 152 Windsor Highway

ZONE: C Sec/Blk/Lot: 9-1-12.1

DESCRIPTION OF EXISTING SITE: Existing retail building

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. Existing wall sign exceeds maximum height permitted.

Louis J. Kynear
BUILDING INSPECTOR

PERMITTED 2ft6inx10ft

PROPOSED OR
AVAILABLE:

VARIANCE
REQUEST:

ZONE: C USE:

SIGN:

FREESTANDING:

HEIGHT: 3ft

6in

WIDTH:

WALL SIGNS:

TOTAL ALL SIGNS:

FEET FROM ANY LOT LINE:

cc: Z.B.A., APPLICANT, FILE, W/ATTACHED MAP

OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT (845) 543-4630 TO
MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.

DATE: 7/16/02

APPLICANT: La Casa D'oro Inc.
PO Box 289
Chester, NY 10918

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE:

FOR: Special Tree

LOCATED AT: 152 Windsor Highway

ZONE: C Sec/Blk/ Lot: 9-1-12.1

DESCRIPTION OF EXISTING SITE: Existing retail building

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. Existing wall sign exceeds maximum height of 28ft6in.

Louis J. Lynch
BUILDING INSPECTOR

PERMITTED 28ft6inx10ft

PROPOSED OR
AVAILABLE:

VARIANCE
REQUEST:

ZONE: C USE: 48-18-B-1

SIGN:

FREESTANDING:

HEIGHT: 3ft

6in

WIDTH:

WALL SIGNS:

TOTAL ALL SIGNS:

FEET FROM ANY LOT LINE:

cc: Z.B.A., APPLICANT, FILE, W/ATTACHED MAP

**ZONING BOARD OF APPEALS: TOWN OF NEW WINDSOR
COUNTY OF ORANGE: STATE OF NEW YORK**

-----X

In the Matter of the Application for Variance of

BJS HOLDING LLC (LA CASA DORO)

AFFIDAVIT OF
SERVICE
BY MAIL

#02-72

_____ X

STATE OF NEW YORK)

) SS:

COUNTY OF ORANGE)

MYRA L. MASON, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 67 Bethlehem Road, New Windsor, NY 12553.

That on the 27th day of December, 2002, I compared the 23 addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor's Office regarding the above application for a variance and I find that the addresses are identical to the list received. I then placed the envelopes in a U.S. Depository within the Town of New Windsor.

Sworn to before me this

Myra L. Mason

Myra L. Mason, Secretary

27th day of December, 2002.

Deborah Green

Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 2003

PUBLIC HEARING NOTICE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 02-72

Request of BJS HOLDING LLC (LA CASA D'ORO)

for a VARIANCE of the Zoning Local Law to Permit:

Request for One additional freestanding sign; Request for 6" maximum height for existing wall sign.

being a VARIANCE of Section 48-18-B1 and 48-18-H-1-A-4

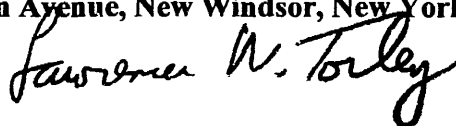
for property located at:

152 Windsor Highway in a C Zone

known and designated as tax map Section 9 Block 1 Lot 12.1

PUBLIC HEARING will take place on January 13th, 2003

at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York
beginning at 7:30 P.M.



Chairman



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (914) 563-4631
Fax: (914) 563-4693

Assessors Office

December 13, 2002

Robert Dickover
28 Bruen Pl. PO. Box 610
Goshen, NY 10924

RE: 9-1-12.1

Dear Sir,

According to our records, the attached lists of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$45.00, minus your deposit of \$25.00.

Please remit the balance of \$20.00 to the Town Clerk's office.

Sincerely,

John McDonald
Acting Assessor

JM/JJL
Attachments

Cc: Myra Mason, ZBA

9-1-8 & 12-1-13

Archie P. & Gloria Jean Antonelli
28 Hillside Ave.
New Windsor, NY 12553

9-1-9 & 12-1-12

Josephine & Di Paolo
32 Hillside Ave.
New Windsor, NY 12553

9-1-11 & 12-1-23

Ofer Avgush
152 Route 202
Garnerville, NY 10923

9-1-12.2

Angelina Talmadge C/o Bernie Calandrea
13 Veronica Ave.
New Windsor, NY 12553

9-1-13 & 9-1-14

Roman Catholic Church Of St. Joseph
6 St. Joseph Place
New Windsor, NY 12553

9-1-24

Joseph Kim Doo
425 Angola Rd.
Cornwall, NY 12518

9-1-25.21

Gerard I. Impellittere Jr.
C/o Duffer's Hide- A- Way
139 Windsor Hwy.
New Windsor, NY 12553

9-1-25.3

Herbert H. Redl
80 Washington Street-Suite 310
Poughkeepsie, NY 12601

9-1-25.4

Pleasant Acres Nursery Inc.
151 Windsor Hwy
New Windsor, NY 12553

12-1-16

Philomena Guariglia Mahood
20 Hillside Ave.
New Windsor, NY 12553

12-1-18.1

Samuel Jr. & Eric Acquaro
Life Estate for Samuel J.
16 Hillside Ave.
New Windsor, NY 12553

12-1-19

Jaroon R. Buthakurn
12 Hillside Ave.
New Windsor, NY 12553

12-1-24

Louis J. & Kathleen Antonelli
3 Hillside Ave.
New Windsor, NY 12553

12-1-27 & 12-1-49

Frank P. Sr. & John R. Antonelli
170 Windsor Hwy
New Windsor, NY 12553

12-1-28 & 12-1-29

Joseph F. & Rose Ann Cubito
15 Hillside Ave.
New Windsor, NY 12553

12-1-30

Joseph & Carmela Di Leonardo
1647 Roland Ave.
Wantagh, NY 11793

12-1-31 & 12-1-32

Gino & Ella Cracolici
23 Hillside Ave.
New Windsor, NY 12553

12-1-33

Jamie L. & Wilma M. Anzalone
27 Hillside Ave.
New Windsor, NY 12553

12-1-34

Bernard E. Mc Cullom
31 Hillside Ave.
New Windsor, NY 12553

12-1-48

Central Hudson Gas & Electric Corp.
284 South Ave.
Poughkeepsie, NY 12602

12-2-1

Orwest Realty Corp. -DB Companies
Dairy Mart Store # 619
PO. Box 9471
Providence, RI. 02940-9471

12-2-2 & 12-2-3

David Sarinsky
298 Union Ave.
New Windsor, NY 12553

9-1-8 & 12-1-13

Archie P. & Gloria Jean Antonelli
28 Hillside Ave.
New Windsor, NY 12553 ✓

12-1-16

Philomena Guariglia Mahood
20 Hillside Ave.
New Windsor, NY 12553 ✓

12-1-48

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9-1-11 & 12-1-23

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12 Hillside Ave.
New Windsor, NY 12553 ✓

12-2-2 & 12-2-3

David Sarinsky
298 Union Ave.
New Windsor, NY 12553 ✓

9-1-12.2

Angelina Talmadge C/o Bernie Calandrea
13 Veronica Ave.
New Windsor, NY 12553 ✓

12-1-24

Louis J. & Kathleen Antonelli
3 Hillside Ave.
New Windsor, NY 12553 ✓

9-1-13 & 9-1-14

Roman Catholic Church Of St. Joseph
6 St. Joseph Place
New Windsor, NY 12553 ✓

12-1-27 & 12-1-49

Frank P. Sr. & John R. Antonelli
170 Windsor Hwy.
New Windsor, NY 12553 ✓

9-1-24

Joseph Kim Doo
425 Angola Rd.
Cornwall, NY 12518 ✓

12-1-28 & 12-1-29

Joseph F. & Rose Ann Cubito
15 Hillside Ave.
New Windsor, NY 12553 ✓

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New Windsor, NY 12553 ✓

12-1-30

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9-1-25.3

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Poughkeepsie, NY 12601 ✓

12-1-31 & 12-1-32

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New Windsor, NY 12553 ✓

9-1-25.4

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151 Windsor Hwy
New Windsor, NY 12553 ✓

12-1-33

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27 Hillside Ave.
New Windsor, NY 12553 ✓

12-1-14

Kevin P. & Ellen T. Mann
24 Hillside Ave.
New Windsor, NY 12553 ✓

12-1-34

Bernard E. Mc Cullom
31 Hillside Ave.
New Windsor, NY 12553 ✓

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

RECEIPT OF ESCROW RECEIVED:

DATE RECEIVED: DECEMBER 17, 2002

FOR: ZBA #02-72

FROM: DICKOVER, DONNELLY, DONOVAN & BIAGI, LLP

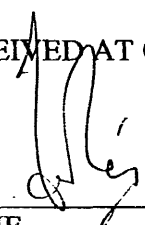
28 BRUEN PLACE – P.O. BOX 610

GOSHEN, NY 10924

CHECK NUMBER: 3395

AMOUNT: \$500.00

RECEIVED AT COMPTROLLER'S OFFICE BY:



NAME

6/16/02

DATE

PLEASE RETURN SIGNED COPY TO MYRA FOR FILING

THANK YOU

LA CASA D'ORO INC.

MR. TORLEY: Request for 6" maximum height for "Electrolux" sign, 6" maximum height for "special tees" sign.

Robert Dickover, Esq. appeared before the board for this proposal.

MR. DICKOVER: Good evening, Mr. Chairman, my name is Robert Dickover, I'm an attorney practicing in Goshen. And if it pleases the Chairman, I prepared a preliminary statement of our application, it might just help matters a little bit but your statement fairly well sums it up.

MR. TORLEY: This is only a preliminary meeting and as a practicing attorney, the depth of information is probably less because you're experienced in this sort of matter. The question really is why can't you shrink the sign six inches?

MR. DICKOVER: Because they're up already and they have been up for a number of years. This is a commercial building on Windsor Highway known as The Heritage Square Shopping Center and there are presently six storefronts in the building, each of which has a placard sign hanging above it. As the years have gone by, my client had tenants come in tenants go out, names of the storeowners went up, they came down, signs were changed and so on. My client, LaCasa D'Doro Inc. sold the premises back in September to a new owner. As part of our agreement at the time of the closing, we undertook to remedy notices of violations received from the building department of which there were many, these are two that are remaining. The other ones have recently been addressed. Actually, a third issue which is a new one that we'll be adding to the application. There's presently a direct, you call them directory signs, I call them pole signs or placard signs out on the street, they list the six tenants there presently and that one was a variance, there's a legal one there but there was one constructed by my client years ago, another one that simply says Heritage Square on it, it's approximately, I didn't measure it, but by my eye,

it's about maybe 3 feet tall by 6 feet wide, hangs between two poles and we'd be adding this to our application.

MR. TORLEY: So you want to add that to your variance request?

MR. DICKOVER: Yes.

MR. TORLEY: For a second freestanding sign?

MR. DICKOVER: Yes.

MR. TORLEY: You'll have to provide the dimensions.

MR. DICKOVER: I will do so.

MR. KANE: Please take some pictures of the signs so we can see them.

MR. DICKOVER: Yes, I will do so. One picture of the store front as it presently exists would probably answer your question about the placard signs and second picture of our existing directory sign that's presently now going to be legal and the one that we're requesting a variance for should suffice.

MR. KRIEGER: Probably. Also want pictures looking both ways down the road so that the members of the board can see whether to what extent the existing signs do or do not interfere with the vision of the motorists.

MR. DICKOVER: Very good.

MR. KANE: Be prepared to discuss why you feel that second freestanding sign is so important. I understand the advertising for the other stores that are there but just the one for Heritage we're trying to keep the signs a little bit under control so be prepared to go that route.

MR. TORLEY: The other signs are not major variance requests, six inches, but you're allowed one freestanding sign, you're asking for another one.

MR. KANE: It's really not serving much of a purpose so just be prepared to go that way.

MR. DICKOVER: I will do so.

MR. TORLEY: Any other questions? Motion?

MR. REIS: Make a motion we set up LaCasa D'Oro Inc. for their requested variances at 152 Windsor Highway including the freestanding sign.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. MC DONALD	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

BA #02-72
Application fee

Town of New Windsor
555 Union Avenue
New Windsor, NY 12553
(845) 563-4611

RECEIPT
#1173-2002

12/18/2002

Dickover, Donnelly, Donovan & Biagi

**Received \$ 150.00 for Zoning Board Fees, on 12/18/2002. Thank you for
stopping by the Town Clerk's office.**

As always, it is our pleasure to serve you.

Deborah Green
Town Clerk

**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**

APPLICATION FOR VARIANCE

Date: _____

I. Applicant Information:

- (a) BJS Holding LLC c/o Dickover, POBox 610, Goshen, NY 10924 (845) 294-9447
(Name, address and phone of Applicant) (Owner)
- (b) n/a
(Name, address and phone of purchaser or lessee)
- (c) Robert J. Dickover, POBox 610, Goshen, NY 10924 (845) 294-9447
(Name, address and phone of attorney)
- (d) n/a
(Name, address and phone of contractor/engineer/architect/surveyor)

II. Application type:

☐ Use Variance
☐ Area Variance

☒ Sign Variance
☐ Interpretation

III. Property Information:

- (a) NC 152 Windsor Highway 9-1-12.1 1.3 A
(Zone) (Address of Property in Question) (S-B-L) (Lot size)
- (b) What other zones lie within 500 feet? R-2; R-4; C
- (c) Is pending sale or lease subject to ZBA approval of this Application? no-n/a
- (d) When was property purchased by present owner? 9/02
- (e) Has property been subdivided previously? no-n/a
- (f) Has property been subject of variance previously? yes. If so, when? 9/13/93 for pole sign
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning/Fire Inspector? no
- (h) Is there any outside storage at the property now or is any proposed? no-n/a

IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law,
Section _____, Table of _____ Regs., Col. _____.

(Describe proposal) n/a

02-72

(b) The legal standard for a "Use" Variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

V. Area Variance: n/a

(a) Area variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

Permitted	Proposed or Available	Variance Request
Min. Lot Area		
Min. Lot Width		
Reqd. Front Yd.		
Reqd. Side Yd.		
Reqd. Rear Yd.		
Reqd. Street Frontage*		
Max. Bldg. Hgt.		
Min. Floor Area*		
Dev. Coverage*		
Floor Area Ratio**		
Parking Area		

* Residential Districts only

** Non-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe

why you believe the ZBA should grant your application for an area variance:

VI. Sign Variance:

- (a) Variance requested from New Windsor Zoning Local Law, Section 48-18-B-1, Supplementary Sign Regulations

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign #1	2'6" x 10'	3' x 10'	6" for Special Tees sign
Sign #2	2'6" x 10'	2'6" x 8'	Determination on Bldg. Inspector
Sign #3	1 Free Standing	2 Freestanding	1 additional letter for Electrolux
Sign #4			free standing sign

- (b) Describe in detail the sign (s) for which you seek a variance, and set forth your reasons for requiring extra or oversized signs.

#1-sign is pre-existing 3'x10' sign with a c/o for 3'x12'

#2-sign is pre-existing sign which actually is in compliance

#3-sign is not of advesting nature but identifies the shopping center as "Heritage Square"

- (c) What is total area in square feet of all signs on premises including signs on windows, face of building and free-standing signs? approx. 373 sq. ft..

VII. Interpretation. n/a

- (a) Interpretation requested of New Windsor Zoning Local Law, Section _____.

- (b) Describe in detail the proposal before the Board:

VIII. Additional comments:

- (a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones in maintained or upgraded and that the intent and spirit of the New Windsor Zoning Local Law is fostered. (Trees, landscaped, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

Signs in kind, style & number are the same as in neighborhood.

IX. Attachments required:

- ☒ Copy of referral from Bldg./Zoning Inspector or Planning Board.
- ☒ Copy of tax map showing adjacent properties.
- ☒ Copy of contract of sale, lease or franchise agreement. Copy of deed and title policy.
- ☒ Copy of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☒ Copy(ies) of sign(s) with dimensions and location.
- ☒ Two (2) checks, one in the amount of \$ 150 and the second check in the amount of \$ 500, each payable to the TOWN OF NEW WINDSOR.
- ☒ Photographs of existing premises from several angles.

X. Affidavit.

Date: 12/16/02

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

R. J. Pickover, attorney in fact for
(Applicant)

BJS Holdings LLC

Sworn to before me this

16th day of December, 2002.

XI. ZBA Action:

(a) Public Hearing date: _____

Suzanne Joyce

SUZANNE JOYCE
NOTARY PUBLIC, State of New York
Orange County
Commission Expires July 31, 20 05

02-72

Bargain and Sale Deed
with Covenant against Grantor's Acts

THIS INDENTURE, made the 24th day of September, Two Thousand Two.

BETWEEN HERITAGE REALTY CONSTRUCTION CORPORATION, a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York with principal place of business at 61-11 Queens Boulevard, Woodside, New York 11377
party of the first part, and

BJS HOLDING LLC, a limited liability company duly organized and existing under and by virtue of the laws of the State of New York with its principal office at 38 West 32nd Street, Room 1201, New York, New York 10001
party of the second part,

WITNESSETH, that the party of the first part, in consideration of FIVE and 00/100 (\$5.00) DOLLARS, lawful money of the United States, and other good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain lot, piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange and State of New York and being more particularly bounded and described as follows:

BEGINNING at a point in the westerly line of New York State Route 32 a.k.a. Windsor Highway, said point being the southeasterly corner of lands now or formerly of The Roman Catholic Church of St. Joseph and the northeasterly corner of the herein described property, thence;

1) N 52° 22' 00" W, 270.50 feet along lands now or formerly of The Roman Catholic Church of St. Joseph, thence;

2) S 35° 38' 00" W, 195.92 feet along lands now or formerly of Talmadge, thence the following two courses along lands now or formerly of Avgush;

3) S 49° 02' 02" E, 113.74 feet, thence;

4) S 48° 00' 00" E, 158.07 feet, thence;

5) N 35° 38' 00" E, 214.58 feet along the westerly line of New York State Route 32 to the point of beginning.

The above description is in accordance with a survey dated July 29, 2002 made by Patrick T. Kennedy, P.L.S.

SUBJECT to covenants, conditions, easements, leases, and agreements of record.

BEING AND INTENDED to be the same lands and premises described in deed, Sada Restaurant Corporation to La Casa D'Oro, Inc., dated April 27, 1976 and recorded in the Orange County Clerk's Office on the 28th day of April, 1976 in Liber 2034 of Deeds at Page 827.

The aforementioned La Casa D'Oro, Inc. having duly changed its legal name to Heritage Realty Construction Corporation by filing made in the office of the Department of State in and for the State of New York.

This conveyance is made in the regular course of business of the grantor corporation and does not constitute all or substantially all of the assets of the corporation.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

[The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.]

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

HERITAGE REALTY CONSTRUCTION CORPORATION

By: *Anthony Clemenza* Pres.
ANTHONY CLEMENZA, PRESIDENT

STATE OF NEW YORK, COUNTY OF ORANGE ss.:

On the 24th day of September in the year 2002, before me, the undersigned, a Notary Public in and for said state, personally appeared ANTHONY CLEMENZA, as President of Heritage Realty Construction Corporation, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Robert J. Dickover
NOTARY PUBLIC

ROBERT J. DICKOVER
Notary Public, State of New York
No. 4759052

02-72

CERTIFICATE OF TITLE

***First American Title Insurance Company
of New York***

Title No. 855-O-1820 (021349)

First American Title Insurance Company of New York ("the Company") certifies to

that an examination of title to the premises described in Schedule A has been made in accordance with its usual procedure and agrees to issue its standard form of title insurance policy authorized by the Insurance Department of the State of New York, in the amount set forth herein, insuring the interest set forth herein, and the marketability thereof, in the premises described in Schedule A, after the closing of the transaction in conformance with the requirements and procedures approved by the Company and after the payment of the premium and fees associated herewith excepting (a) all loss or damage by reason of the estates, interests, defects, objections, liens, encumbrances and other matters set forth herein that are not disposed of to the satisfaction of the Company prior to such closing or issuance of the policy (b) any question or objection coming to the attention of the Company before the date of closing, or if there be no closing, before the issuance of the policy.

This Agreement to insure shall terminate (1) if the prospective insured, his or her attorney or agent makes any untrue statement with respect to any material fact or suppresses or fails to disclose any material fact or if any untrue answers are given to material inquiries by or on behalf of the Company; or (2) upon the issuance of title insurance in accordance herewith. In the event that this Certificate is endorsed and redated by an authorized representative of the Company after the closing of the transaction and payment of the premium and fees associated herewith, such "redated" Certificate shall serve as evidence of the title insurance issued until such time as a policy of title insurance is delivered to the insured. Any claim made under the redated Certificate shall be restricted to the conditions, stipulations and exclusions from coverage of the standard form of title insurance policy issued by the Company.

COUNTERSIGNED

AUTHORIZED SIGNATURE



FIRST AMERICAN TITLE INSURANCE COMPANY
OF NEW YORK

BY:

James M. Depland
PRESIDENT

KAR-VIN ABSTRACT CORP.
273 Quassaick Avenue (NYS Rt. 94)
New Windsor, NY 12553
(845) 562-2622 • FAX (845) 565-8737
1-800-545-9223

02-72

Title No. 855-O-1820 - Amended

Effective Date: 5/21/02

Redated:

Proposed Insured:

Purchaser: BJS Holding LLC

Mortgagee: Panasia Bank, N.A., its Successors and/or
Assigns as their interest may appear

Amount of Insurance:

FEE: \$600,000.00

MORTGAGE: \$400,000.00

THIS COMPANY CERTIFIES that a good and marketable title to the premises described in Schedule A, subject to the liens, encumbrances and other matters, if any, set forth in this certificate may be conveyed and/or mortgaged by:

La Casa D'Oro, Inc. who acquired title by deed dated 4/27/76 made by Sada Restaurant Corporation and recorded in the ORANGE County Clerk's Office on 4/28/76 in Liber 2034 of Deeds, at page 827.

Premises described in Schedule "A" are known as:
152 Windsor Highway

County: ORANGE

City:

Town: New Windsor

Section/Block/Lot: 9-1-12.1

SCHEDULE A

Title No. 855-O-1820

All that certain lot, piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange and State of New York and being more particularly bounded and described as follows:

Beginning at a point in the westerly line of New York State Route 32, a.k.a. Windsor Highway, said point being the southeasterly corner of lands now or formerly of The Roman Catholic Church of St. Joseph and the northeasterly corner of the herein described property, thence;

1) N 52°22'00" W, 270.50 feet along lands now or formerly of The Roman Catholic Church of St. Joseph, thence;

2) S 35°38'00" W, 195.92 feet along lands now or formerly of Talmadge, thence the following two courses along lands now or formerly of Avgush;

3) S 49°02'02" E, 113.74 feet, thence;

4) S 48°00'00" E, 158.07 feet, thence;

5) N 35°38'00" E, 214.58 feet along the westerly line of New York State Route 32 to the point of beginning.

The policy to be issued under this report will insure the title to such buildings and improvements erected on the premises which by law constitute real property.

FOR CONVEYANCING ONLY: TOGETHER with all the right, title and interest of the party of the first party, of, in and to the land lying in the street in front of and adjoining said premises.

SURVEY READING

Title No. 021349

Survey dated 7/29/02 made by Patrick T. Kennedy, PLS shows no encroachments or variations of lot lines, except the following: 1) curb extending outside southeasterly boundary line, 2) gravel drive extending from asphalt parking lot on property to northwesterly boundary line and continuing over lands N/F Talmadge; rights of others over same are excepted, 3) subject to the following note on the survey: "Subject to rights of ingress and egress to lands now or formerly of Talmadge."

TOTAL P.03

02-72

SCHEDULE B

Title No. 855-O-1820

Hereinafter set forth are additional matters which will appear in our policy as exceptions from coverage unless disposed of to our satisfaction prior to the closing or delivery of the policy.

1. Rights of tenants or persons in possession, if any.
2. Taxes, tax liens, tax sales, water rates, sewer rents and assessments set forth herein.
3. Any state of facts which an accurate survey might show.
4. Covenants, conditions, easements, leases, agreements of record, etc., more fully set forth in Schedule herein: Water rights in Liber 717 Cp. 519. Right of way in Liber 1067 Cp. 513. Right of way and right to relocate same, sewer line easement and agreement and water line agreement in Liber 1870 Cp. 783, repeated in Liber 2034 Cp. 827.
5. Underground encroachments and easements, if any, including pipes and drains and such rights as may exist for entry upon said premises to maintain and repair the same. (FEE POLICY ONLY)
6. The amount of acreage is not insured.

NOTE: Insurance Law Sec. 64 Subdivision 6409(c) requires that title companies offer, at or prior to closing, an optional policy to cover the homeowner for the **FUTURE** market value of his house. You may, therefore, elect to obtain protection in excess of your purchase price. If you do not wish this additional statutory coverage, you **MUST WAIVE** by signing in the space below this exception:

PAGE 2 CONTINUED

7. No title is insured to any land lying within the lines of any street, road, avenue, lane, turnpike, or highway in front of or adjoining the premises described in Schedule "A" or which may cross over the same.
8. Subject to rights and easements if any acquired by any public utilities company to maintain its poles and operate its wires, lines, etc., in, to and over the premises herein and in, to and over the streets adjacent thereto. (FEE POLICY ONLY)
9. If the mortgage or mortgages returned herein is a Credit Line Mortgage, special arrangements with the title company must be made PRIOR to closing in order to satisfy same at closing.
10. Mortgages returned herein (NONE). Detailed statement within.
11. Obtain proof that N/A has not been known by any other name for 10 years last past. Any other name must be submitted to Company prior to closing.
12. If the Title Company is to have any checks certified there will be a certified check charge of \$35.00.
13. No personal inspection having been made by this Company, policy will except any state of facts an inspection would disclose.
14. The courses stated in the description will not be insured in the absence of a satisfactory survey certified to the Company.
15. Riparian rights, if any, in favor of the premises herein are not insured.
16. Rights of others to drain through creeks or streams, if any, which cross premises and the natural flow thereof will be excepted.
17. Except all sanitation, sewer and water meter charges from date of the last actual reading of the meter, including all charges entered hereafter but which might include usage prior to the date of this policy.

PAGE 3 CONTINUED

18. Identity of the parties through photo identification to be produced at closing.
19. If there is an assignment of a mortgage to be insured the original instrument in recordable form must be produced at closing.

If this transaction is a refinance and involves modifying an existing mortgage with a different lender the original note, mortgage and assignment must be produced at closing. The Company will not close without compliance to the above requirements.

20. Application indicates title is vested in Heritage Realty Construction Corp. We find title as certified herein. This must be satisfactorily explained.
21. Proof of payment of franchise tax on Heritage Realty Construction Corp. from incorporation to date of closing is required. **This objection may not be omitted without approval from the Company.** (see attached)
22. If the present transaction consists in whole or in part of a conveyance or lease by a corporate grantor or lessor we will require the written consent thereto by all of the holders of the outstanding shares of the said corporation and the instrument on closing should so recite.

In lieu thereof the consent of the holders of two-third of all of the outstanding shares entitled to vote thereon obtained at a meeting duly noticed and called for the purpose of obtaining such consent in the manner provided for in Section 605 of the Business Corporation Law is required and the instrument on closing should so recite.

In lieu thereof a recital in the deed of conveyance stating "This conveyance is made in the ordinary course of business and does not constitute all or substantially all of the assets of the Corporation"

If none of the above is obtained, then, the proofs showing the basis upon which the conveyance or lease is to be made must be submitted to counsel prior to closing.

PAGE 4 CONTINUED

23. Proof of payment of franchise tax on La Casa D'Oro, Inc. from incorporation to date of closing is required. Report requested from State Tax Commission.
24. If the present transaction consists in whole or in part of a conveyance or lease by a corporate grantor or lessor we will require the written consent thereto by all of the holders of the outstanding shares of the said corporation and the instrument on closing should so recite.
- In lieu thereof the consent of the holders of two-third of all of the outstanding shares entitled to vote thereon obtained at a meeting duly noticed and called for the purpose of obtaining such consent in the manner provided for in Section 605 of the Business Corporation Law is required and the instrument on closing should so recite.
- In lieu thereof a recital in the deed of conveyance stating "This conveyance is made in the ordinary course of business and does not constitute all or substantially all of the assets of the Corporation"
- If none of the above is obtained, then, the proofs showing the basis upon which the conveyance or lease is to be made must be submitted to counsel prior to closing.
25. As premises herein are benefited by a tax exemption, policy will except the lien which may attach by reason of any restoration of real property taxes after transfer of title by the owner entitled to tax exemption.
26. Title to be conveyed by Heritage Realty Construction Corp. LaCasa D'Oro, Inc. changed its name to Heritage Realty Construction Corp.
27. Proof of payment of franchise tax on Heritage Realty Construction Corp. from incorporation to date of closing is required. This objection may not be omitted without approval from the Company. (see attached)
28. Proof is required as to the date of formation of BJS Holding LLC, and proof of publication of the Articles of Organization (or a notice containing the substance of the articles).

PAGE 5 CONTINUED

28. A copy of the Articles of Organization and the operating agreement must be delivered to the company prior to closing for review. Title is subject to such additional exceptions as a review discloses.
29. Proof is required that there has been no change in the composition of the Limited Liability Company, by either adding or dropping members since its formation and that it has not been dissolved.
30. Proof is required that the purchase was authorized in accordance with the Articles of Organization, operating agreement, and laws of the State of New York.
31. The enclosed affidavit must be executed by a member/manager of the Limited Liability Company prior to closing.

02-72